THE HON'BLE SRI JUSTICE BILAL NAZKI
AND
THE HON'BLE SRI JUSTICE NOOTY RAMAMOHANA RAO

WRIT PETITION No.1763 of 2005

Date: 22-02-2007.

Between :

H.Abdul Azeem.

.....Petitioner

And

The Registrar (Administration), High Court of Andhra Pradesh, Hyderabad & another.

.....Respondents.

THE HON'BLE SRI JUSTICE BILAL NAZKI
AND
THE HON'BLE SRI JUSTICE NOOTY RAMAMOHANA RAO

WRIT PETITION No.1763 of 2005

ORDER : (Per Hon'ble Sri Justice Bilal Nazki)

The petitioner is aggrieved of an order passed bearing ROC.No.722/2004-CI/6, dated 16.09.2004. This order was passed by the 1st respondent-Registrar (Administration) of the High Court, rejecting the representation of the petitioner seeking protection of pay. The petitioner was working on temporary basis with effect from 31st of January 1998 as Steno-typist. He continued on adhoc basis without any break till 3rd of March 2004. During this period, the petitioner was also granted increments. In the year 2000, a notification for recruitment on regular basis was issued by the District Judge, Kurnool and the petitioner applied for the post of Steno-typist and by proceedings of District Judge, Kurnool, dated 27.02.2004, he was appointed on regular basis and he

joined duty in regular post on 04.03.2004. His grievance is that as he had worked on adhoc basis from 31.01.1998 till he joined in regular post on 04.03.2004, his pay should have been protected. For this purpose, he made a representation, which has been rejected through the impugned order.

The learned counsel for petitioner submits that his case is covered by instructions issued by the Government vide G.O.Ms.No. 219, Finance (FRI), dated 15.7.1970. The respondents, in the counter affidavit, have nowhere stated that this G.O.Ms.No.219 is not applicable to the petitioner. They have not also contended that even after application of this G.O., the petitioner would not be entitled for protection of pay. Para 3 of G.O.Ms.No.219 reads as under—

> *"Government accordingly direct that Government servant holding a temporary post when selected for regular appointment in a different office or department in the same category of post or an identical post in the same service be allowed under Fundamental Rule 27 pay in the new post taking into account his temporary service in the old post, provided that the period, if any between the date of relief from the temporary post and the date of his joining to the new post does not exceed the actual journey time required for joining the new post."*

In view of the clear mandate of this G.O., we are of the view that the petitioner is entitled to protection of pay

as he had worked in the Department continuously for more than six years before he was regularly appointed and he was also given increments for that period.

For these reasons, the writ petition is allowed and the impugned order is set aside.

BILAL NAZKI, J

22nd February 2007.

NOOTY RAMAMOHANA RAO, J

ajr